

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5687 of 1986
with
SPECIAL CIVIL APPLICATION No 5688 of 1986
with
SPECIAL CIVIL APPLICATION No 5689 of 1986
with
SPECIAL CIVIL APPLICATION No 5690 of 1986
with
SPECIAL CIVIL APPLICATION No 5691 of 1986

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

V N SHRIMALI

Appearance:

GOVERNMENT PLEADER for Petitioner
SERVED for Respondent No. 1

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 05/02/98

COMMON ORAL JUDGEMENT

All these Writ Petitions preferred under Article

227 of the Constitution arises out of the common judgment and order passed in Appeals Nos.134/1982, 392/1983, 394/1983, 202/1984 and 331/1984 by the Gujarat Civil Services Tribunal on 28th October, 1985. All the aforesaid appeals were preferred by the respective respondents herein for condonation of break in their service. All the respondents are work charged employees of the State Government. A preliminary objection was raised by the Government (present petitioner) regarding the jurisdiction of the tribunal to entertain the said appeals. It was the argument of the State Government that the work charged employees cannot be said to be the specified civil servant as defined in Section 2 (h) of the Gujarat Civil Services Tribunal Act 1972. The said preliminary objection was heard by the learned Tribunal on 9th October, 1985 and was rejected under the impugned judgment and order dated 28th October, 1985. Feeling aggrieved, the State Government has preferred the present petition.

2. The respondents are duly served. Mr. P.V.Hathi, the learned advocate appears for the respective respondents in Spl.Civil Appln.No.5688 of 1986 and 5689 of 1986. The respondents in rest of the writ petitions are not represented before me.

3. Mr. Hathi, the learned advocate, appearing for the respondents has submitted that after the rejection of the preliminary objection raised by the State Government, the appeals pending before the Tribunal were heard and disposed of on merits on 4th November, 1985. All the appeals were allowed by the learned Tribunal. The directions issued by the Tribunal have been complied with and the present petitions, therefore, have become infructuous. He has also submitted that no writ petition or appeals have been preferred against the judgment and orders of the learned Tribunal passed on 4th November, 1985 allowing the respective appeals. Learned Assistant Government Pleader Ms. Talati is not in a position to controvert this statement made by Mr. Hathi for want of necessary instructions.

4. In my opinion, in view of the disposal of the appeals pending before the learned Tribunal, the present petitions preferred against the order on preliminary objection has become infructuous. The petitions therefore deserve to be dismissed as such. Further, in the event the judgment and order passed on the respective appeals by the Tribunal on 4th November, 1985 has been challenged, the issue raised in the present petitions can as well be raised in the latter proceedings. Therefore,

also these petitions do not require to be decided on merits. These petitions are, therefore, dismissed. I do not express any opinion whether the work charged employees of the State Government can be said to be 'specified civil servant' as defined in Section 2(h) of the Gujarat Civil Services Tribunal Act, 1972 or not. Rule nisi issued on each of the petitions is discharged. Parties shall bear their own costs.

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